

## REMARKS

Claims 2 -10, 15, 17-19, 21 and 24 remain in the application. No amendments are being made in this paper. Claims 2, 21 and 24 are the independent claims herein. No new matter has been added. Reconsideration and further examination are respectfully requested.

### Claim Rejections – 35 USC § 101

Claims 2-10 and 17-19 are rejected under 35 U.S.C. 101.

This rejection is respectfully traversed for reasons that are set forth below.

The Examiner asserts that method steps recited in the rejected claims fail prong (1) of the *Bilski* test because the method steps are not tied to a machine. However, applicant respectfully submits that this assertion by the Examiner overlooks the following language recited in claim 2: “**a server computer** retrieving at least some of the base information from a database”; “**the server computer** receiving said information associated with the additional mortgage loan from a **user terminal**”; “**said server computer** calculating a loan spread for the additional mortgage loan in accordance with a contribution of the additional mortgage loan to the portfolio”; and “**said server computer** calculates said loan spread in accordance with an indication from a user as to whether a particular one of said credit rating categories is to be calculated”.

Accordingly, no less than four method steps in claim 2 are clearly tied to a machine, namely a “server computer”. Indeed, one of the method steps is tied to two different machines, namely the “server computer” and a “user terminal”. It thus simply is not the case that the method steps of claim 2 are not tied to a machine. Rather, several of the method steps are in fact tied to a machine, so that claim 2 clearly satisfies the first prong of the *Bilski* test. Thus claim 2 satisfies the statutory subject matter requirement of § 101, and this rejection should be reconsidered and withdrawn.

(The above remarks concerning claim 2 are equally applicable to claims 3-10 and 17-19, all of which are dependent on claim 2.)

Claim Rejections – 35 USC § 103

Claims 2-10, 15, 17-19, 21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman et al. (U.S. Patent No. 6,249,775) in view of Wheatworks – (LoanSpread Financial Calculator, at <http://www.wheatworks.com/versionhistorylscp.htm>), and further in view of Charles D. Brown, Letter re Fitch Ratings (“Brown”).

Applicant respectfully traverses this rejection for reasons that are set forth below.

Claim 2 is directed to a “method to facilitate analysis of a commercial mortgage backed security portfolio associated with a plurality of mortgage loans”. The method of claim 2 includes “determining base information associated with the portfolio”, where “said determining includ[es] a server computer retrieving at least some of the base information from a database”. The method recited in claim 2 further includes “determining information associated with an additional mortgage loan to be added to the portfolio”, where “said determining said information associated with the additional mortgage loan includ[es] the server computer receiving said information associated with the additional mortgage loan from a user terminal”. Still further, the method of claim 2 includes “said server computer calculating a loan spread for the additional mortgage loan in accordance with a contribution of the additional mortgage loan to the portfolio”. In addition, claim 2 specifies that “the portfolio is associated with a plurality of credit rating categories, [and] each of said credit rating categories [is] denoted by a respective letter grade in a letter grade credit rating system, [with] each credit rating category being associated with a current category size”. Claim 2 also specifies that the determining step includes “determining, for the additional mortgage loan, a category size for each credit rating category, each said category size for the additional mortgage loan expressed as a percentage of a total loan” and that “said server computer calculates said loan spread in accordance with an indication from a user as to whether a particular one of said credit rating categories is to be calculated”.

Applicant respectfully submits that the prior art relied upon by the Examiner, taken as a whole, does not teach or suggest the invention recited in claim 2, when also taken as a whole.

The Examiner has conceded that the Freeman refers fails to disclose “calculating a loan spread for [an] additional mortgage loan in accordance with a contribution of the additional mortgage loan to [a] portfolio”. The Examiner then proposes that it would be “obvious ... to

include loan spread calculation in analyzing a portfolio of mortgages, given that loan spread calculation is a standard for evaluating mortgages.” In this regard, the Examiner cited the “Wheatworks” reference.

One major problem with the Examiner’s position is that calculation of loan spreads has no logical part to play in Freeman’s system for analyzing loan portfolios. A main point of Freeman’s analysis is to determine the “performance of various loan groups vis-à-vis the default rate of these loans over the life of these loans, foreclosures, collection efforts, loan prepayments and the like”.<sup>1</sup> Freeman proposes to improve analysis of this type of “performance” by comparing loans of different vintages as of times when the loans were at the same age.<sup>2</sup> However, this type of performance analysis would not be aided in any way by calculated loan spreads, because loan spreads are not relevant to this type of performance. Thus there is no apparent reason why calculating a loan spread would be incorporated in Freeman’s system.

Applicant also notes that the Wheatworks reference does not support the Examiner’s reliance thereon. While “LoanSpread” is the brand name for the software package advertised in the Wheatworks reference, this term merely seems to suggest the concept of a spreadsheet for analyzing a loan. This is a totally different concept from calculating a loan spread as that term is used in claim 2 and would be understood by one who is skilled. Applicant observes that the various loan parameters listed in the second paragraph of the Wheatworks reference do not include a “loan spread”.

Still further, and assuming for the sake of argument that calculation of loan spreads is well known, it nevertheless does not follow that it was known to calculate a loan spread “in accordance with a contribution of [an] additional mortgage loan to [a] portfolio”, as specifically recited in claim 2. The Examiner has completely failed to establish that calculation of a loan spread in this particular manner was known in the prior art. As the Examiner concedes, Freeman is entirely silent as to loan spreads. Further, the Wheatworks reference has nothing to do with calculating loan spreads. Thus the Examiner has failed to provide a *prima facie* case of obviousness with respect to at least one element of claim 2.

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<sup>1</sup> Freeman, column 5, lines 62-65.

<sup>2</sup> Freeman, column 10, lines 3-27.

For all of these reasons, applicant respectfully submits that the rejection of claim 2 is fatally flawed, and should be reconsidered and withdrawn.

The above remarks concerning claim 2 are also applicable to the other pending claims, which are submitted as patentable on the same basis as claim 2. In addition, applicant also wishes to point out the following flaws in connection with the Examiner's treatment of certain dependent claims.

With respect to claim 4, the Examiner asserts that Freeman, at column 13, lines 11-23, discloses "adding the category size for the additional mortgage loan to the current category size to determine a combined category size". However, the cited passage only deals with adjusting a comparison of groups of loans for differences in sample sizes. This has nothing to do with adding a category size for an additional mortgage loan to a current category size to determine a combined category size.

Claim 5 recites making certain profitability calculations to determine a profitability of an additional mortgage loan. In this regard, the Examiner cites a passage in Freeman at column 13, lines 60-65. However, this passage relates to marginal improvements in credit quality resulting from changes in criteria. This passage does not mention profitability, and clearly does not discuss determining the profitability of a particular mortgage loan.

The Examiner cites the same passage with respect to claim 6, which is concerned with "desired profitability of [an] additional mortgage loan". However, this passage has nothing to do with desired profitability.

Regarding claim 7, the Examiner cites column 16, lines 36-45 of Freeman as allegedly disclosing that the "calculation of the loan spread is an iterative process". However, given that Freeman does not even mention calculation of a loan spread, it follows that Freeman cannot possibly disclose such a calculation as an iterative process. (In fact, the passage in question relates to calculating rate curves, not loan spreads; neither is it clear that there is anything iterative about the calculations referred to in the passage.)

## **C O N C L U S I O N**

Accordingly, Applicant respectfully requests allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (203) 972-3460.

Respectfully submitted,

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